



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/172013

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 12, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Richland County Health and Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on March 14, 2016.

The issue for determination is whether the petitioner can receive additional FoodShare in January, 2016, if she did not report that her income had fallen until January, 2016.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Richland County Health and Human Services  
221 W Seminary St.  
PO Box 673  
Richland Center, WI 53581

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. The petitioner was an ongoing FoodShare recipient who was receiving Child Support payments until December 12, 2015. No child support payments were received by petitioner after that date.

3. The petitioner informed the respondent that she was no longer receiving Child Support on January 19, 2016.

### **DISCUSSION**

FoodShare rules hold that “[a]ll reported changes that cause an increase in the FS benefit...will be effective the first of the month following the report month.” *FoodShare Wisconsin Handbook*, § 6.1.3.3.; see also, 7 CFR 273.12(c)(1). The petitioner ceased receiving Child Support in December, 2015. She was in contact with the Child Support agency that month, but did not contact FoodShare until January 19, 2016. She seeks to overturn a benefits determination that resulted in increased benefits for February, 2016, but did not increase her benefits for January, 2016.

I sympathize with the petitioner but have no power to grant her request. Administrative law judges lack equitable powers that would allow them to consider the fairness of the situation. Rather, they must apply the law as it is written. FoodShare rules do not allow additional benefits until the month after the recipient reports a change in income. Therefore, although I understand why the petitioner believes she is entitled to an increased FoodShare allotment for the month of January, 2016, I have no power to grant her request.

### **CONCLUSIONS OF LAW**

The petitioner is not entitled to additional FoodShare in January, 2016, because she reported the change in her income that month.

**THEREFORE, it is**

### **ORDERED**

The petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 6th day of April, 2016

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on April 6, 2016.

Richland County Health and Human Services  
Division of Health Care Access and Accountability